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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,120	08/25/2003	L. Taylor Arnold	ARNOLD-5	8894

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EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,120

Applicant(s)

ARNOLD, L. TAYLOR

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6-9,12,15-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,6-9,12 and 15 is/are allowed.
- 6) ☒ Claim(s) 16,17, and 19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 02/24/06
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16, 17 and 19 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 16, the claim recites "a linkage element having a first end and an opposite second end, wherein said linkage element is pivotably connected to said master model vehicle at a middle point between said first end and second end"; however, the disclosed specification discloses two linkage elements 22/34 and 24/36 are attached to the master vehicle on page 8—[Note: Figures 2-4—it appears that the master model vehicle is attached at the ends of linkage elements 22/34 and 24/36] . It is not clear how the linkage element is pivotably connected to the master model vehicle at the middle point.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17 and 19 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen et al (US Patent 4,568,300)..

The device of Rasmussen reads on the structural limitations of the claim including a remote control signal (22), a remote control signal receiver (col. 2, par. 1) and the linkage element is pivotably connected to the master model vehicle at the middle point (It should be noted that linkage 70 is connected in middle point of the front end of master car 50 as seen in figure 3) . Rasmussen suggests in col. 3, par. 2 that additional cars may be increased and the master and slave vehicles have distinct pathways as shown in figure 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made add additional slave model vehicles to the master model vehicle of Rasmussen for the purpose of creating excitement when playing the system.

However, Rasmussen fails to teach the master vehicle containing a servomotor. At the time the invention was made, it would have been an obvious matter of design choice to a persons of ordinary skill in the art to use a servomotor for the master vehicle of Rasmussen because Applicant has not disclosed that the servomotor provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected the vehicle of Rasmussen and applicant's invention, to perform equally well with the claimed servo motor because both would perform the same function of moving the vehicle.

Therefore, it would have been prima facie obvious to modify the vehicle of Rasmussen to obtain the invention specified in claim 19 because such modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Rasmussen.

Claims 16, 17 and 19 are finally are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen et al in view of Baumgartner (US PUB 2003/0082987) or Peters et al (US Patent 6,491,566) or Welte (US Patent 5,100,153).

In the event applicant disagrees with the above rejection, Baumgartner, Peters and Welte teaches master and slave remote control cars. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control as suggested by Baumgartner, Peters or Welte for the vehicles of Rasmussen et al for the purpose of causing slave toy to follow or evade the master vehicle.

Allowable Subject Matter

Claims 1, 3, 6-9, 12 and 15 are finally allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Primary Examiner
Art Unit 3725

bbm
February 24, 2006